

Neutral Citation No. 2024:PHHC:070597

2024:PHHC:070597



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRR No. 4515 of 2017 (O&M)

Date of decision : 22.05.2024

Kanwaljit Singh

...Petitioner

Versus

Paramjit Kaur

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. C. L. Verma, Advocate &
Mr. Aditya Dassaur, Advocate
for the petitioner.

Mr. T. P. S. Bawa, Advocate
for the respondent.

MANISHA BATRA, J.(Oral)

1. The instant revision petition has been filed by the petitioner against the order dated 17.04.2017, passed by the Judicial Magistrate First Class, SAS Nagar in complaint bearing number COMA/88-16, titled as ***Paramjit Kaur vs. Kanwaljit Singh***, filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (*for short 'DV Act'*), whereby the petitioner was directed to pay maintenance of Rs. 30,000/- per month to the respondent-wife from the date of filing the complaint till the final disposal of the same along with Rs. 10,000/- as rent; as well as the against the order dated 23.10.2017, passed by learned Additional Sessions Judge,

Neutral Citation No. 2024:PHHC:070597

SAS Nagar, whereby the appeal filed by the petitioner against the aforesaid order dated 17.04.2017 had been dismissed.

2. Brief facts of the case relevant for the purpose of the disposal of the present revision are that the aforementioned complaint had been filed by the respondent on the allegations that she got married with the petitioner on 24.11.1996. She was posted at Bathinda at that time. Just two days after the marriage, the petitioner-husband started pressurizing and harassing her in getting herself transferred to Ambala, wherein the nuptial home of the respondent was existing. He also started harassing her on account of bringing insufficient dowry. Questions were raised about her character and she was even humiliated for giving birth to female children. The respondent/complainant alleged that she used to give her entire salary to the petitioner. A plot was purchased by her from GMADA in the year 2001 and a house was got constructed on the said plot by her with her own money. She had taken a loan for raising construction of the house and the amount of loan was being deducted from her salary. The petitioner-husband did not make any financial contribution either in the purchase of the plot or in the construction of the house. He did not even render physical help. The respondent alleged that it was her, who was made to bear all the expenses for maintenance of their daughters but she kept on bearing all this to save her marriage and for the welfare of her children. She alleged that when they shifted in the newly built house, the petitioner started harassing the respondent even more. He used to humiliate her daughters and they were so scared that they shifted to the house of their maternal grandmother. She also quoted several other instances of the act and conduct of the petitioner and

Neutral Citation No. 2024:PHHC:070597

alleged that on 06.06.2016 and 07.06.2016, the respondent, who was residing with her parents, came to the house built by her to take some articles and found that the petitioner, after breaking upon the locks of the same, had entered therein and her entire jewellery was found to be missing. Therefore, she filed the aforesaid complaint under Section 12 of the DV Act seeking protection under Section 18, a residence order for using her own house at Mohali independently, for directing the petitioner to return her *stridhan*, to grant maintenance to her as well as her children, to direct the petitioner to pay the compensation for the acts of mental and physical cruelty caused by him upon her. The respondent also filed an application for the grant of interim relief. Vide impugned order dated 17.04.2017, learned Magistrate allowed the application thereby directing the petitioner to pay an amount of Rs.30,000/- per month to the respondent as maintenance from the date of filing the complaint till the final disposal of the same. Apart from this, the petitioner was also directed to pay rent of Rs.10,000/- per month to the respondent for occupying the house, which was claimed by the respondent to be owned by her. An order of protection thereby restraining the petitioner from committing any act of cruelty or harassment on the respondent was also passed. Feeling aggrieved by the order dated 17.04.2017, the petitioner had preferred an appeal before the Court of learned Additional Sessions Judge, SAS Nagar, which too was dismissed vide impugned order dated 23.10.2017.

3. Feeling dissatisfied by the impugned orders, the petitioner has filed the present revision petition on the grounds and it has been argued by his counsel that the impugned orders are not sustainable in the eyes of law as

Neutral Citation No. 2024:PHHC:070597

the amount of maintenance of Rs.30,000/- as directed to be paid by the petitioner to the respondent is on higher side and further due to the reasons that the respondent herself is fetching monthly income of Rs. 82,000/-. The Courts below also ignored the fact that it had come on record that the respondent was living with her parents at Bathinda as per her own wishes and had left her matrimonial house along with her daughters without any reasonable cause. The petitioner has also submitted that he was nonetheless duty bound and ready as well as willing to support his daughters and while considering that an amount of Rs. 20,000/- per month for the daughters as a share of their expenses from the side of the petitioner was reasonably required, he had deposited all the arrears of maintenance by calculating the same from the month of December, 2016 till date of filing the revision petition. Learned counsel for the petitioner has further argued that during the pendency of this petition, which had been filed way back in the year 2017, much water has flown as the services of the petitioner have been terminated and he is jobless and living at the mercy of near relatives and his friends and not in a position to make payment of even a single penny to the respondent. It is argued that keeping in view the changed circumstances as well as the fact that the respondent-wife is fully capable of maintaining herself and she herself is fetching a substantial amount of income, she is not liable to be maintained by him and no amount of maintenance is payable to her. With these broad submissions, it is urged that the impugned orders are liable to be set aside and the revision petition deserves to be allowed.

4. *Per contra*, it has been argued by learned counsel for the respondent-wife that the revision petition is not maintainable at all as the

Neutral Citation No. 2024:PHHC:070597

Courts below had passed the impugned orders after taking into consideration overall facts and circumstances of the case. The house at Mohali is owned by the respondent and it is she, who had incurred expenses for purchase of the plot as well as for raising construction of the house over it and no financial contribution whatsoever had been made by the petitioner. It is the petitioner, who made them leave that house and is in occupation of the same. It is further argued that the petitioner had committed several acts of domestic violence upon the respondent and she, being an aggrieved person, is certainly entitled to the relief as claimed by her and as granted by the learned Magistrate by passing the order dated 17.04.2017 and as affirmed by the learned appellate Court by passing the impugned order dated 23.10.2017. Therefore, it is argued that the revision petition being devoid of any merit is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

6. The respondent-wife has filed the aforesaid petition under Section 12 of the DV Act making allegations of being harassed at the hands of the present petitioner after her marriage with him on account of bringing less dowry, by suspecting her character and by torturing her on account of giving birth to two daughters instead of a male child. She has also taken a plea that she purchased a plot from GMADA at Mohali with her own money and built up a house over the same by taking loan in her name as well as financial help from her parents and the financial contribution of the petitioner was nil in this regard. She alleged that the respondent had entered into the above said house after breaking open its locks on 06.07.2016 and

Neutral Citation No. 2024:PHHC:070597

07.06.2016 and ever since then, he is in occupation of the same, though he has no right to be there. The learned Magistrate, while passing the impugned order dated 17.04.2017, had observed that the petitioner, being husband of the respondent, was liable to maintain her as well as their children and further that even though she was herself earning, she was still entitled to maintain the same standard, which she would have enjoyed, had she been residing with her husband. Since the petitioner had not produced any material on record to show his income, therefore, the Magistrate was constrained to observe that the same could not be calculated. The amount of Rs. 30,000/- per month was directed to be paid to her for meeting with expenses of education of her daughters and taking into consideration the high cost of living in a city like Mohali as well as rising price of basic amenities.

7. The appellate Court observed that there was admission on the part of the petitioner that he was earning an amount of Rs. 90,000/- per month and was residing in the disputed house. Though it was observed that the respondent was also earning a sum of Rs. 77,500/- per month at that time but it was held that since she was paying installments of loan taken for construction of the house, wherein the petitioner was residing, therefore, the amount of Rs. 30,000/- per month so directed to be paid by way of interim maintenance for meeting with the expenses of her daughters could not be said to be excessive. More so, since the petitioner was residing in house, which was admittedly owned by the respondent-wife and since it has also come on record that she had been making payment of loan by way of monthly installment raised by her for construction of the said house,

Neutral Citation No. 2024:PHHC:070597

therefore, the learned Magistrate had rightly held him liable to pay an amount of Rs. 10,000/- as rent. Whereas, so far as the plea as taken by the petitioner during the course of argument or that now his services have been terminated and he is even unable to maintain himself and cannot pay any maintenance is concerned, in my considered opinion, it does not deserve to be accepted in view of the fact that at the time of passing of impugned order in the year 2017, he was very much employed as per his own case and this order had been passed while taking into consideration the income of the petitioner at that relevant point of time. Therefore, the same does warrant any interference by this Court while exercising revisional jurisdiction. If there is some subsequent change in circumstances, the petitioner can very well avail remedies available to him in this regard separately in accordance with law.

8. In view of the discussion as made above, finding no merit in the petition, the same is dismissed.

22.05.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No